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NASA Procedural Requirements

COMPLIANCE IS MANDATORY**NPR 8590.1**Effective Date: June 14,
2007Expiration Date: June 14,
2012[Printable Format \(PDF\)](#)

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 (NASA Only)

Subject: NASA Environmental Compliance and Restoration (ECR) Program

Responsible Office: Environmental Management Division[| TOC](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [Chapter6](#) | [Chapter7](#) |
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Chapter 3. Potentially Responsible Party (PRP) Analysis

3.1 Purpose

To provide a consistent approach for NASA Centers/Component Facilities to identify PRPs and develop cost-sharing or cost-recovery arrangements with the PRPs for the investigation and restoration of contaminated sites on NASA Centers/Component Facilities.

3.2 Requirements

a. A PRP analysis is required for any ECR restoration project that meets any of the following criteria:

- (1) Is included on a Federal, national, or state priority list.
- (2) Contamination may be due to activities of former site owners or operators other than NASA or NACA.
- (3) Contamination occurs on property jointly owned by NASA and any other entity.
- (4) Contamination is migrating onsite from neighboring property.

b. Where NASA clearly is the only responsible party for contamination at a site, or the contamination solely is due to petroleum, or there is no information available that can be used to identify PRPs, further PRP analysis is not required. For sites that meet these criteria, the CEMO, in consultation with the Center Chief Counsel's Office, shall document the determination that additional PRP analysis is not required and report the results to the Headquarters EMD with copies furnished to the NASA Office of the General Counsel.

c. To minimize potential conflicts of interest, the CEMO shall not utilize existing or former owners, operators, or contractors that are possible PRPs to perform the PRP analysis. Likewise, a contractor that performed the environmental baseline surveys (EBS) for property acquired by NASA shall not be used to conduct a PRP analysis for contamination on that same property.

d. The CEMO shall fully coordinate the conduct of any PRP analysis with the Chief Counsel's Office at the Center. The CEMO and Chief Counsel's Office shall coordinate to ensure that privileged documents or materials are segregated from releasable documents or materials.

e. The PRP analysis shall include a PRP search. The PRP search shall consider, but may not be limited to, former owners and operators, contractors, tenant organizations, neighboring parties, or other Government entities. The PRP search may include, among other things, interviews with employees, former employees, regulatory personnel, and other potentially knowledgeable persons, as well as a review of EBS, contract documents, property records, regulatory information, and other data and information, as appropriate. The CEMO shall document the PRP search and its results.

f. Documentation shall describe the files reviewed and records collected. Relevant records may include correspondence, recordings, photographs, computer tapes, drawings, technical data and reports, hazardous waste

manifests, shipping papers, notices of violations, complaints, investigations, prior site owner or operator records, chain of title, and records of current business and financial status of PRPs.

g. As part of the PRP analysis, the CEMO, jointly with the Chief Counsel's Office at the Center, shall evaluate the potential for cost-sharing or cost-recovery arrangements with any PRPs identified. The CEMO shall document the results of the evaluation. Factors to be considered may include, but are not limited to, the following:

- (1) Former land ownership.
- (2) Operator status (including, to the extent possible, detailed description of relative operational responsibilities and standard operating procedures).
- (3) Extent of NASA versus PRP control of the activity.
- (4) Contract terms.
- (5) Completeness of records.
- (6) Legal constraints.
- (7) Site characteristics.
- (8) Amount recoverable in comparison to cost of recovery (based on the Center/Component Facility's best estimate of the relative degree of responsibility of the PRPs).

h. Based on the PRP search and the cost-sharing or cost-recovery evaluation, the Center/ Component Facility shall determine the advisability of pursuing negotiations with some or all of the PRPs. The Center Director shall forward the PRP analysis and its recommendations to the Headquarters EMD with copies furnished to the NASA Headquarters Chief Financial Officer, the Office of the General Counsel, and the Office of Procurement. The Office of Procurement is responsible for reviewing PRP analyses involving current NASA contractors for potential impacts to contract performance, cost, or schedule. The Headquarters EMD shall provide a response to the PRP analysis within 30 days of receipt of the PRP analysis at Headquarters.

i. Unless contrary direction is received from the Headquarters EMD as a result of the 30-day review period, the Center/Component Facility, through the Center Chief Counsel's Office, the Office of the General Counsel, and the Department of Justice, may formally notify the PRPs and initiate negotiations for cost sharing or cost recovery. Cost-sharing arrangements (e.g., PRPs pay restoration contractors directly for their share of the cleanup or restoration measure) are preferred, if reasonable, relative to cost recovery.

j. The Center Director shall submit proposed agreements to the Headquarters EMD for approval. The Headquarters EMD shall coordinate with the Chief Financial Officer and the General Counsel. Upon fulfillment of these requirements, the Center Director has the authority to enter into the agreement for NASA.

3.3 Roles And Responsibilities

3.3.1 Assistant Administrator for Infrastructure and Administration

The Assistant Administrator for Infrastructure and Administration is responsible for:

- a. Reviewing PRP analyses and concurring on proposed agreements to ensure completeness and adherence to this NPR.

3.3.2 NASA Headquarters General Counsel

The NASA Headquarters General Counsel is responsible for:

- a. Reviewing PRP analyses and concurring on proposed agreements forwarded by the Headquarters EMD.
- b. Serving as the designated liaison with the Department of Justice on all efforts requiring the involvement of the Department of Justice.
- c. Providing support to the Center Chief Counsel's Office, as appropriate.

3.3.3 NASA Chief Financial Officer

The NASA Chief Financial Officer is responsible for:

- a. Reviewing PRP analyses, concurring on proposed agreements forwarded by the Headquarters EMD for adherence to financial management requirements relevant to cost-sharing or cost-recovery arrangements, and assessing potential impacts to funding.

3.3.4 NASA Headquarters Environmental Management Division

The Headquarters EMD is responsible for:

- a. Reviewing PRP analyses, approving proposed agreements, coordinating reviews of proposed agreements with

the other appropriate Headquarters offices, and responding to PRP analyses and recommendations submitted by Centers/Component Facilities.

3.3.5 NASA Center/Component Facility Environmental Management Office

The CEMOs are responsible for:

- a. Completing and documenting PRP analyses in accordance with this NPR.
- b. Coordinating PRP analyses with the Center Chief Counsel's Office.
- c. Designating a Center/Component Facility official with overall responsibility for coordinating the Center/Component Facility's efforts to identify PRPs.
- d. Designating a Center/Component Facility official for leading negotiations with PRPs when appropriate. The Center/Component Facility negotiator shall, in consultation with the Center Chief Counsel's Office, have broad discretion to conduct negotiations relevant to site-specific cost-sharing or cost-recovery arrangements, since the success of negotiations is likely to depend on specific site conditions and the individual PRPs. The Center/Component Facility negotiator shall consult with the Center Chief Counsel's Office throughout the negotiations.

For the Jet Propulsion Laboratory, the NASA Management Office (NMO) represents Headquarters as the parent Center for satisfying the requirements of this NPR. As such, the NMO has the responsibilities of the Center Environmental Office.

3.3.6 Center Chief Counsel's Office

The Center Chief Counsel's Office is responsible for:

- a. Coordinating the conduct of any PRP analyses at the Center/Component Facility.
- b. Ensuring that privileged documents or materials are segregated from releasable documents or materials.
- c. Consulting with the Center/Component Facility negotiator regarding cost-sharing or cost-recovery negotiations.
- d. Consulting with the Office of the General Counsel as appropriate, including, when necessary, coordinating PRP analyses or negotiations with the Department of Justice.

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